

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No AB-6 (Sub-No. 416X)

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY  
COMPANY-ABANDONMENT EXEMPTION-IN BOTTINEAU COUNTY, ND

Decided: June 23, 2004

The Burlington Northern and Santa Fe Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F-Exempt Abandonments to abandon and discontinue service over a 15.50-mile line of railroad between milepost 52.00 near Souris, to milepost 67.50 near Westhope, in Bottineau County, ND. Notice of the exemption was served and published in the Federal Register on May 25, 2004 (69 FR 29782). The exemption is scheduled to become effective on June 24, 2004.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on May 18, 2004. In the EA, SEA states that the National Geodetic Survey (NGS) has identified five geodetic station markers that may be affected by the proposed abandonment. Therefore, SEA recommends that BNSF be required to notify NGS at least 90 days prior to salvage activities to plan for their relocation.

SEA states that the U.S. Department of the Interior, Fish and Wildlife Service - North Dakota Field Office (USFWS), has expressed concerns about the approximately 1.8-mile portion of the line that crosses J. Clark Salyer National Wildlife Refuge (Wildlife Refuge). The USFWS states that it has no objections to the project, as proposed; however, USFWS states that material including rail and ties, should be removed from the portion of the line that crosses the Wildlife Refuge. SEA recommends that BNSF remove track materials from the following portion of the line: T. 163 N., R. 79 W., Section 31 and T. 162 N., R. 79 W., Sections 5 and 6. Therefore, based on SEA's recommendation, BNSF will be required to remove track materials, including rail and ties, from the portion of the line that crosses the Wildlife Refuge.

SEA also states that the U.S. Department of the Interior, Bureau of Land Management (BLM), states that it has no wildlife sanctuaries or refuges, national or state parks or forests in the proposed impact area. However, BLM has requested that BNSF keep it informed as to the continued abandonment process. Therefore, SEA recommends that BNSF be required to consult with BLM prior to commencement of any salvage activities on this project.

Finally, SEA states that the North Dakota Parks and Recreation Department (NDPRD) indicates that the project, as proposed, would not affect state park lands that the agency manages or Land Water Conservation Fund recreation projects that the agency coordinates. However, NDPRD recommends that any impacted areas be revegetated with species native to the project area. Therefore, SEA recommends that BNSF be required to revegetate areas that are impacted by salvage activities with species native to the area.

In the EA, SEA initially recommended that BNSF retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.<sup>1</sup> Following the receipt of additional comments from BNSF and the SHPO, SEA has determined that the previously recommended historic preservation condition is no longer necessary. However, the SHPO still requests submission of site forms for any bridges that are 50 years old or older, as well as for any historical sites, and the final cultural resources report.<sup>2</sup> SEA now recommends the imposition of a condition requiring that, prior to beginning salvage activities, BNSF be required to submit to the SHPO site forms for any bridges that are 50 years old or older, as well as for any historical sites, and the final cultural resources report.

The conditions recommended by SEA will be imposed. As conditioned, this decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the exemption of the abandonment of the rail line described above is subject to conditions requiring that BNSF: (1) notify NGS at least 90 days prior to any salvage activities to plan for the relocation of the geodetic station markers; (2) remove track materials, including rail and ties, from the portion of the line that crosses the Wildlife Refuge; (3) consult with BLM prior to commencement of any salvage activities; (4) revegetate areas impacted by salvage activities with species native to the areas; (5) prior to beginning salvage

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<sup>1</sup> In the EA, SEA initially stated that the State Historical Society of North Dakota (SHPO) had requested additional information from BNSF, including the preparation and submission to its office for consultation of a Class I Cultural Resources Inventory of the Area of Potential Effect. The SHPO also recommended that any previously unrecorded and unevaluated abandoned or to-be abandoned stations over 50 years of age along the railway line be recorded and preliminarily evaluated by a state-permitted cultural resource firm.

<sup>2</sup> SEA contacted the SHPO's representative, Duane Klinney, on June 18, 2004, and the request was confirmed.

activities, submit to the SHPO site forms for any bridges that are 50 years old or older, as well as for any historical sites, and the final cultural resources report.

3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams  
Secretary